

State of California
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

Regulation 1596. BUILDINGS AND OTHER PROPERTY AFFIXED TO REALTY.

Reference: Sections 6006, 6010, 6012.2, 6012.8, 6012.9, 6016, 6016.3, 6276, 6276.1, 6379, Revenue and Taxation Code. Leased property affixed to realty as tangible personal property when lessor has right to remove, see Regulation 1660.

(a) BUILDINGS AND MINERALS. The transfer of buildings or minerals or the like affixed to land is taxable as a sale of personal property if, pursuant to the contract or agreement of sale, the buildings or minerals or the like are to be severed by the seller thereof. If, pursuant to the contract or agreement of sale, such buildings or minerals or the like are to be severed by the purchaser thereof, such a transfer is not taxable as a sale of personal property.

The gross receipts from the sale of or the storage, use, or other consumption in this state of any used mobilehome the initial retail sale of which qualified for the 60 percent exclusion provided for by Revenue and Taxation Code Section 6012.8 for the period January 1, 1980 to June 30, 1980, inclusive, is exempt from the sales and use tax.

Operative July 1, 1980, the gross receipts from the sale of, and the storage, use, or other consumption in this state of any used mobilehome subject to local property taxation is exempt from the sales and use tax.

The exemptions for sales of used mobilehomes does not extend to accessories or other items as defined in Regulation 1610 (b) (3) (B) (1) that are not an integral part of the mobilehome at the time of sale.

(b) TIMBER. The transfer of timber to be severed is taxable as a sale of personal property, regardless of whether the timber is to be severed by the seller or by the purchaser thereof.

(c) FIXTURES, MACHINERY AND EQUIPMENT, AND DRAPERIES AFFIXED TO REAL PROPERTY. The transfer "in place" of affixed fixtures, machinery and equipment, or draperies is taxable as a sale of personal property when removal of the fixtures, machinery or equipment, or draperies by the seller or purchaser is contemplated by the contract of sale. The transfer "in place" of affixed fixtures, machinery and equipment, or draperies owned by a lessee of land or buildings to which those items are affixed, is also taxable as a sale of personal property when the lessee-seller has the present right to remove the items either as trade fixtures under Section 1019 of the Civil Code or under the express terms of the lease.

The measure of tax with respect to the sale of fixtures, machinery and equipment, or draperies does not include any value attributable to their attachment to real property, even though such value might be included in the agreed price. In the absence of evidence requiring a different method of consumption, when the agreed price includes the value attributable to the attachment of the items, the measure of tax will be determined by applying to the agreed price that percentage which the original cost of the property bears to the total of that cost and the cost of the attachment, i.e.,

$$\frac{\text{cost of items}}{\text{cost of items} + \text{cost of attachment}} \times \text{agreed price} = \text{measure of tax.}$$

History: Adopted February 17, 1970, effective March 22, 1970.

Amended May 21, 1975, effective June 29, 1975. Added formula for determining taxable percentage of sale of an in-place fixture.

Amended July 27, 1978, effective September 7, 1978. In (c) added "draperies".

Amended August 1, 1980, effective August 22, 1980, operative July 1, 1980. In (a) added last three paragraphs.

Amended November 19, 1980, effective January 16, 1981. In (a), fourth paragraph, added reference to Regulation 1610 (b) (3) (B) 1.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.